

David D. Noce

Requirements

1. LOCAL AND FEDERAL RULES

Many answers to frequently asked questions are contained in the Local Rules of the Eastern District of Missouri, the Federal Rules of Civil and Criminal Procedure, and the Federal Rules of Evidence. All counsel are expected to know these rules and to follow them. Frequent review of the rules is recommended because they are often amended.

2. INFORMAL MATTERS

I do not have a set time for informal matters. If you have an informal matter, please call chambers and my secretary will advise you of my availability. You will then be required to notify opposing counsel, agree on a convenient time, and call chambers to confirm my availability. If the matter is unopposed, you can mail a copy of the motion to chambers or leave it personally, and I will rule it as soon as possible.

3. SCHEDULING CONFERENCES AND CASE MANAGEMENT ORDERS

Civil cases are usually set for Rule 16 conferences as soon as defendants have entered the case. Usually, Rule 16 conferences are conducted on the record, by telephone conference initiated by my courtroom clerk. If appropriate, I may require that the Rule 16 conference occur in the courtroom on the record. The order setting the Rule 16 conference and the Case Management Order are self-explanatory. During the Rule 16 conference, please be prepared to discuss the facts of your case and all other matters set out in the Rule 16 order.

4. AVOIDING PERSONAL INFORMATION IN CIVIL CASE TRANSCRIPTS

In an effort to reduce the amount of information that would need to be redacted from final transcripts, attorneys are not to use or request from witnesses social security numbers, minors' names, bank account numbers, or addresses.

5. PRETRIAL CONFERENCE

I generally conduct a final pretrial conference on the record reasonably close to the trial setting, usually during the preceding week. The date is set in the Case Management Order.

At the conference, we will discuss any evidentiary issues, motions in limine, scheduling issues, etc.

Because the purpose of the final pretrial conference is to resolve issues in advance of trial, in 2006 I modified my Case Management Order to schedule the filing of the pretrial compliance papers, including the trial brief, proposed instructions, evidence lists, and motions in limine, not later than ten days before the final pretrial conference. Any responses or objections to those documents are to be filed five days before the final pretrial conference.

6. JURORS AND VOIR DIRE

For voir dire questioning, the venirepanel is seated left to right in the jury box, Nos. 1 through 8 in the back row, and 9 through 15 in the front row. The rest of the venirepanel members are seated in the spectators' gallery on the jury box side of the courtroom, numerically, left to right. You will be provided a list of the jury panel members as they enter the courtroom. The list is not available in advance. The list contains the name, municipality where the juror lives, current employer, former employer, occupation, and spouse's employer and occupation. Hobbies and children's ages and occupations are provided if the juror gives us that information.

At voir dire, I will make an introductory statement to the jury generally describing the nature of the case and introducing counsel. Usually, attorneys conduct their own voir dire, although I may ask additional questions. After all questioning has been completed, the panel will be removed from the courtroom and I will immediately ask for challenges for cause. No challenges for cause or statements that the panel is acceptable may be made in front of the jury panel. After any persons are stricken for cause, the parties will make their peremptory challenges.

After the jury is selected, all copies of jury lists must be returned to the clerk.

7. TREATING PHYSICIANS AS EXPERTS

As to any opinion not expressly disclosed in a medical record or report (e.g., causation, prognosis), Judge Noce considers a treating physician who would be called at trial to testify to be an expert witness subject to Federal Rule of Civil Procedure 26(b)(2) as to the undisclosed opinions.

8. COURTROOM

A. Use of the Lectern: Voir dire, opening statements, examination of witnesses, and closing arguments must be made from the lectern. However, without first asking permission, you may approach a witness to hand the witness an exhibit. Counsel must then return to the lectern for questioning, unless counsel must direct the witness's attention to a part of the exhibit.

B. Audio Recording: The proceedings in my courtroom are usually electronically sound recorded. Therefore, anything you say must be directed into the microphone at the lectern. If you speak from one of the counsel tables or while you are returning to the lectern

after handing an exhibit to a witness, your question or objection might not be part of the record. The court may ask you to approach the microphone and repeat yourself.

C. Exhibits: You must pre-mark all exhibits, as set out in the Case Management Order. Do not ask us to mark exhibits for you. Before trial, you must physically review all exhibits of each opposing party that are listed in the pretrial compliance papers.

D. Jury Instructions: Counsel are to use the Eighth Circuit Model Jury Instructions as patterns for proposed instructions. If practicable, the instructions will be provided to the jury in writing.

E. Witness Examination: You do not need to ask the Court's permission to begin questioning a witness who has been sworn.

F. Objections to Deposition Designations: Before the Court will consider objections to deposition designations during trial, the Court requires that counsel meet and discuss the objections in a good faith endeavor to settle the objections.

G. Courtroom Projection Equipment: Counsel may use their own data projection equipment. However, the Court has available for counsel to use at no extra cost high-tech, automated electronic evidence display equipment. An explanation on the use of this equipment is available on the Eastern District of Missouri's website at www.moed.uscourts.gov under Courtroom Technology. Please contact my office for information about the equipment and how you might use it.

9. COURTROOM DECORUM

Please stand when the judge or the jury enters the courtroom; stand at all times when speaking.

No eating, no drinking other than water, no gum chewing, no cellular phones, and no audible beepers or watches are allowed in the courtroom. Please advise your clients and witnesses of these rules.

10. CONTACTS WITH CHAMBERS STAFF

Counsel may NOT initiate contact by telephone or otherwise with the judge's law clerk about any case or proceeding, except in the absence of the judge's judicial assistant (secretary). The judge may, however, direct his deputy clerk, judicial assistant, law clerk, or intern to contact counsel about administrative matters, such as (without limitation) the scheduling of proceedings and the appointment of counsel to represent a party.

If counsel (or an unrepresented party) wishes to discuss an appropriate matter with chambers, the individual should contact the judge's judicial assistant, write a letter to the judge, or file a paper with the clerk of court.